



LEAD SHEET

02-0660417

DEPARTMENT OF LAND MANAGEMENT
NORTHWEST CALIFORNIA LIFE MITIGATION BRANCH

APR 23 2002

RECEIVED

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA

3:41 PM MAR 19 2002

SPACE ABOVE THIS LINE FOR RECORDERS USE

TITLE(S)

FEE

D.T.T.

FEE \$ 46 RR 14

CODE
20

D.A. FEE Code 20

\$ 2.00

CODE
19

CODE
9

Assessor's Identification Number (AIN)

To Be Completed By Examiner OR Title Company In Black Ink

Number of Parcels Shown

THIS FORM IS NOT TO BE DUPLICATED

02-0860417 2

RECORDING REQUESTED BY:
The Estate of Jack Ellison
Mr. Earle Lambert
Personal Representative for the
Estate of Jack G. Ellison
City National Bank Building, Suite 185
16133 Ventura Boulevard
Encino, California 91436-2430

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control
Southern California Cleanup Operations
1011 North Grandview Avenue
Glendale, California 91201
Attention: Sayareh Amir, Chief
Southern California Cleanup Operations

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

(Re: Southland Oil Co. Site, Assessor's Parcel No. 6332-014-001)

This Covenant and Agreement ("Covenant") is made by and between the Estate of Jack Ellison (the "Covenantor"), the current owner of property situated in the City of Commerce, County of Los Angeles, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"), and the Department of Toxic Substances Control (DTSC). Pursuant to Civil Code section 1471(c), DTSC has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code ("H&SC") section 25260. The Covenantor and DTSC, collectively referred to as the "Parties", hereby agree that the use of the Property be restricted as set forth in this Covenant.

3

ARTICLE I
STATEMENT OF FACTS

1.01. The Property, totaling approximately one (1) acre is more particularly described and depicted in Exhibit "A", attached hereto and incorporated herein by this reference. The Property is located in the area now generally bounded by the Los Angeles Junction Railway to the north, Randolph Street on the south, land owned by the Emery Corporation to the west, and the Globe Iron Foundry facility to the east, County of Los Angeles, State of California. This Property is more specifically described as County Assessor's Parcel No. 6332-014-001.

1.02. A limited portion of the Property is more particularly described in Exhibit "B" which is attached and incorporated by this reference ("Affected Property") as defined below. The Affected Property is that portion of the property where soil vapor extraction (SVE) equipment, soil vapor wells, and groundwater monitoring wells are located.

1.03. DTSC is remediating the Property. The Property is being remediated pursuant to a Remedial Action Plan pursuant to Chapter 6.8 of Division 20 of the H&SC. Because hazardous substances, as defined in H&SC section 25316, which are also hazardous materials as defined in H&SC section 25260, including volatile organic compounds, polyaromatic hydrocarbons, lead, and polychlorinated biphenyls, remain in the soil and groundwater in and under portions of the Property, the Remedial Action Plan provides that a deed restriction be required as part of the site remediation. DTSC circulated the Remedial Action Plan, which contains a Final Health Risk Assessment, together with a draft negative declaration pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq. for public review and comment. The Remedial Action Plan and the negative declaration, were approved by DTSC on November 26, 1996. Remediation includes maintaining an engineered asphalt/concrete cover ("Cap") over the Property. The Cap consists of low permeability asphalt and other associated layers, as more particularly described in the engineering drawing attached as Exhibit "C" hereto. The response action also includes the installation and operation of: (1) an SVE system, which remediates certain volatile organic compound-impacted soils, (2)

4

soil vapor monitoring wells, and (3) groundwater monitoring wells ("Monitoring Wells"). The location of the SVE system and Monitoring Wells are shown on Exhibit "B". The operation and maintenance of the Cap, SVE, and Monitoring Wells is pursuant to an Operation and Maintenance Manual, which was approved by DTSC on February 15, 2002.

1.04. As detailed in the Final Health Risk Assessment as approved by DTSC on March, 2, 1993, all of the surface and subsurface soils within 10 feet of the surface of the Property contain hazardous substances, as defined in H&SC section 25316, which include the following contaminants of concern in the ranges set forth below: lead at concentrations of 80 to 17,000 parts per million ("ppm"), volatile organic compounds including benzene, ethyl benzene, toluene, xylene, chlorobenzene, 1,1,1-trichloroethane, trichloroethylene, and perchloroethylene. Concentrations of total volatile organic compounds range from 0.3 to 10,000 micrograms per liter ($\mu\text{g/l}$). Polychlorinated biphenyls were detected in site soils to maximum of 17 ppm. Polyaromatic hydrocarbons were detected in site soils to a maximum of 24 ppm. Total cancer risk from all hazardous substances to on-site workers was estimated at 8.4×10^{-5} . Total cancer risk to on-site office workers was estimated to be 6.1×10^{-4} . A significant non-carcinogenic risk was also estimated for exposure to the presence of lead. The hazard index for lead was estimated at 3.3. U. S. EPA and DTSC both consider remedial actions necessary for sites that have carcinogenic risks greater than 1×10^{-6} or a hazard index greater than 1.0. Based on the Final Risk Assessment, DTSC concluded that use of the Property as a residence, hospital, school for persons under the age of 21 or day care center would entail an unacceptable cancer risk. DTSC further concluded that the Property, as remediated, and subject to the restrictions of this Covenant, does not present an unacceptable threat to human safety or the environment, if limited to commercial and industrial use.

ARTICLE II

DEFINITIONS

2.01. DTSC. "DTSC" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

02 0660417

2.02. Owner: "Owner" means the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any portion of the Property.

2.03. Occupant: "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

ARTICLE III GENERAL PROVISIONS

3.01. Restrictions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every Restriction: (a) runs with the land pursuant to H&SC section 25355.5(a)(1)(C) and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property, (c) is for the benefit of, and is enforceable by DTSC, and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding upon Owners/Occupants. Pursuant to H&SC section 25355.5(a)(1)(C), this Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471(b), all successive owners of the Property are expressly bound hereby for the benefit of DTSC.

3.03. Written Notice of the Presence of Hazardous Substances. Prior to the sale, lease or sublease of the Property, or any portion thereof, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous substances are located on or beneath the Property, as required by H&SC section 25359.7.

3.04. Incorporation into Deeds and Leases. From and after the date of recordation

02 0660417

of this Covenant, the Restrictions set forth herein shall be incorporated by reference in each and all deeds and leases for any portion of the Property. Further, each Owner or Occupant shall include in any instrument conveying any interest in all or any portion of the Property, including but not limited to deeds, leases, and mortgages, a notice which is substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTION AND COVENANT TO RESTRICT USE OF PROPERTY, RECORDED IN THE PUBLIC LAND RECORDS ON __[DATE]__, IN BOOK__, PAGE__, IN FAVOR OF AND ENFORCEABLE BY THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL.

3.05. Conveyance of Property. The Owner shall provide notice to DTSC not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding mortgages, liens, and other non-possessory encumbrances). DTSC shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

ARTICLE IV RESTRICTIONS

4.01. Prohibited Uses. The Property shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 21 years of age.
- (d) A day care center for children.

4.02. Soil Management

- (a) No activities that will disturb the soil beneath the Cap (e.g.,

02 0660417

excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed on the Property without a Soil Management Plan and a Health and Safety Plan approved by DTSC.

- (b) Any contaminated soils brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law.
- (c) The Owner shall provide DTSC written notice at least thirty (30) days prior to any building, filling, grading, mining or excavating in the Property.

4.03. Prohibited Activities. The following activities shall not be conducted at the Property:

- (a) Drilling for [drinking] water, oil, or gas [without prior written approval by DTSC].

4.04. Non-Interference with Cap, SVE and Monitoring Wells.

Covenantor agrees:

- a) Activities that may disturb the Cap (e.g. excavation, grading, removal, trenching, filling, earth movement, or mining) shall not be permitted on the Property without prior review and approval by DTSC.
- (b) Activities that may disturb the SVE system or Monitoring Wells (e.g. building, concealing, removal, or filling shall not be permitted on the Affected Property without prior review and approval by DTSC.
- (c) All uses and development of the Property shall preserve the integrity of the Cap and physical accessibility of the SVE system and Monitoring Wells.
- (d) The Cap shall not be altered without written approval by DTSC.
- (e) Covenantor shall notify DTSC of each of the following: (i) the type, cause, location and date of any damage to the Cap, SVE system, or Monitoring Wells and (ii) the type and date of repair of such damage. Notification to DTSC shall be made as provided below within ten (10) working days of both the discovery of any such disturbance and the completion of any repairs. Timely and accurate notification by any

02 0660417

Owner or Occupant shall satisfy this requirement on behalf of all other Owners and Occupants.

4.05. Access for DTSC. DTSC shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by DTSC in order to protect the public health or safety, or the environment.

4.06. Access for Implementing Operation and Maintenance. The entity or person responsible for implementing the Operation and Maintenance Activities shall have reasonable right of entry and access to the Property for the purpose of implementing the Operation and Maintenance Activities until DTSC determines that no further Operation and Maintenance is required.

ARTICLE V ENFORCEMENT

5.01. Enforcement. Failure of the Covenantor, Owner or Occupant to comply with any of the Restrictions specifically applicable to it shall be grounds for DTSC to require that the Covenantor or Owner modify or remove any improvements ("Improvements" herein shall mean all buildings, roads, driveways, and paved parking areas), constructed or placed upon any portion of the Property in violation of the Restrictions. Violation of this Covenant shall be grounds for DTSC to file civil or criminal actions as provided by law.

ARTICLE VI VARIANCE, TERMINATION, AND TERM

02 0660417

6.01. Variance. Covenantor, or any other aggrieved person, may apply to DTSC for a written variance from the provisions of this Covenant. Such application shall be made in accordance with H&SC section 25233.

6.02. Termination. Covenantor, or any other aggrieved person, may apply to DTSC for a termination of the Restrictions or other terms of this Covenant as they apply

to all or any portion of the Property. Such application shall be made in accordance with H&SC section 25234. 9

6.03 Term. Unless ended in accordance with the Termination paragraph above, by law, or by DTSC in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII MISCELLANEOUS

7.01. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02. DTSC References. All references to DTSC include successor agencies/departments or other successor entity.

7.03. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Los Angeles within ten (10) days of the Covenantor's receipt of a fully executed original.

7.04. Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owner:

Mr. Earle Lambert
Personal Representative for the Estate of Jack G. Ellison
City National Bank Building
16133 Ventura Boulevard
Encino, California 91436-2430

02 0660417

To DTSC:

Sayareh Amir, Chief
Department of Toxic Substances Control
Southern California Cleanup Operations
1011 N. Grandview Ave.
Glendale, California 91201

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05. Partial Invalidity. If any portion of the Restrictions or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.06 Statutory References. All statutory references include successor provisions.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Covenantor:

By:

Title:

Mr. Earle Lambert

Personal Representative for the Estate of Jack Ellison

Date:

Department of Toxic Substances Control

By:

Title:

Sayareh Amir, Chief

Southern California Cleanup Operations, Glendale Office

Date:

02 0660417

STATE OF CALIFORNIA)

)

COUNTY OF LOS ANGELES)

On this 1 day of MARCH, in the year 2002,

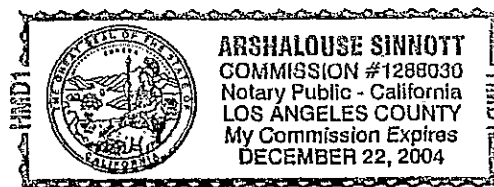
before me Arshalouse Sinnott, notary public, personally appeared

EARLE LAMBERT, Personal Representative of the Estate of Jack Ellison,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is /are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Arshalouse Sinnott



02 0660417

STATE OF CALIFORNIA)

COUNTY OF Los Angeles)

On this 7 day of March, in the year 2002,

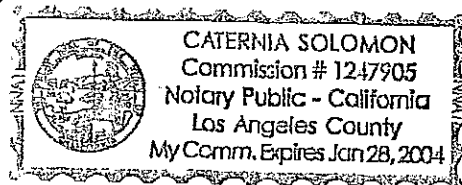
before me Caterina Solomon, personally appeared

Syarah Amir

~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Caterina Solomon



02 0660417

13

Exhibit "A"

Legal Description of the Property

A legal description of the Southland oil Co. Site, located at 5619 Randolph Street described on the deed found in Book 1, Page 389, of the official records in the Los Angeles County Recorder's office is as follows:

A portion of the Rancho San Antonio, in the City of Commerce, in the County of Los Angeles, State of California, as per map recorded in Book 1, Page 389 of Patents records of said county, described as follows:

Beginning at point which bears south 82° 49' 30" east 690 feet and north 7° 10' 10" east 50 feet from the intersection of the easterly line of the Los Angeles Gas and Electric Corporation's right of way as described in deed recorded in Book 3813 Page 21, official records, with the northerly line of the Pacific Electric Railway's right of way 'Los Angeles to la Habra Branch' said point of beginning being also in the northerly line of a private street 50 feet wide known as Randolph Street; thence from said true point of beginning north 7° 10' 30" east 218.8 feet to point in the southerly line of a railroad right of way recorded in book 6092 page 254, official records; thence south 82° 49' 30" east along said southerly right of way line 200 feet to the northwesterly corner of the property deeded to Frank Protto, et al., by the Laguna-Maywood Land Corporation, by deed recorded in Book 6060, page 54 official records of said county; thence south 7° 10' 30" west along the westerly line of said Protto property, 217.8 feet to a point in the northerly line of said Randolph Street; thence north 82° 49' 30" west 200 feet to the point of beginning.

02 0660417

Exhibit "B"

Description of "Affected Property"

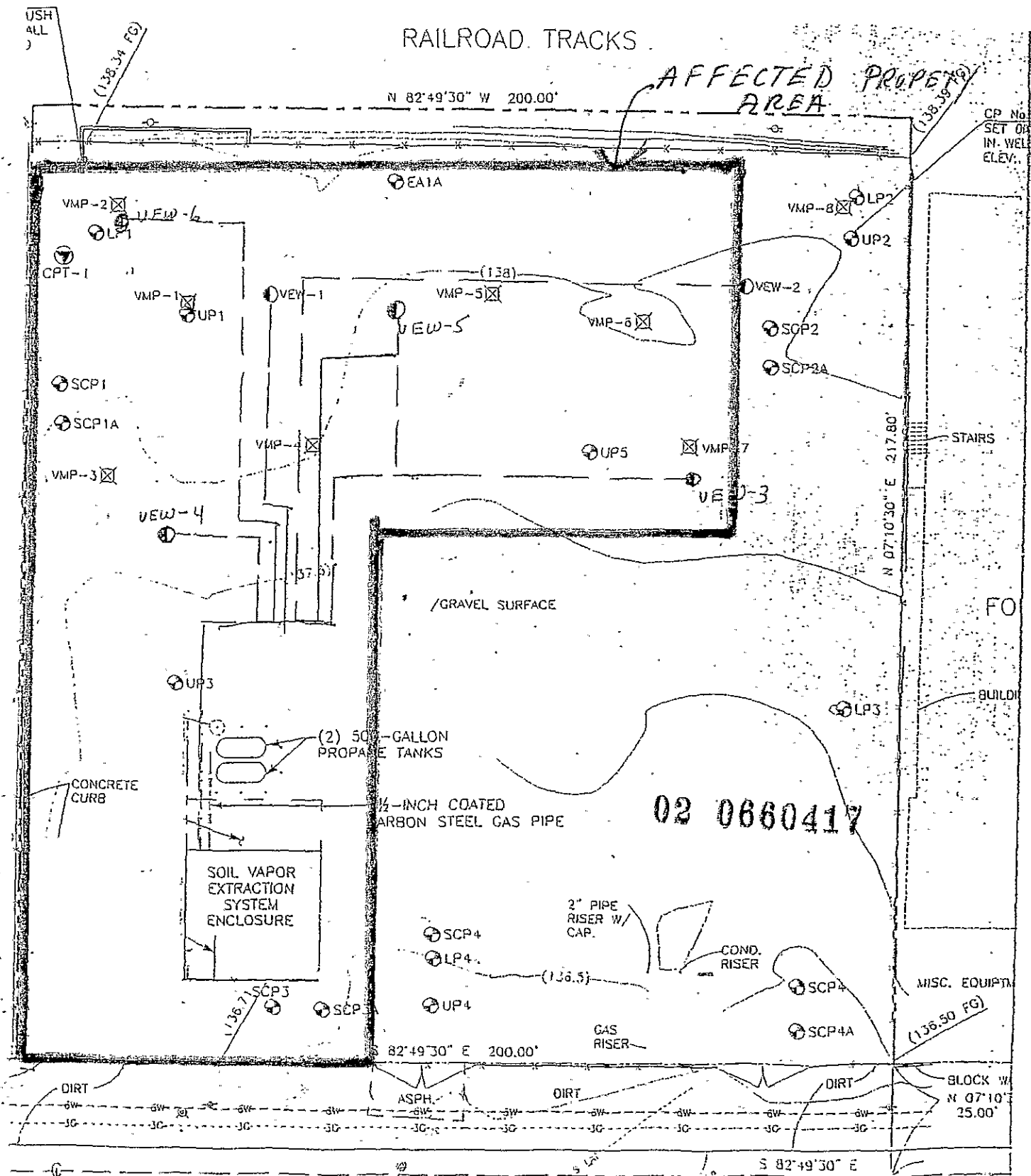
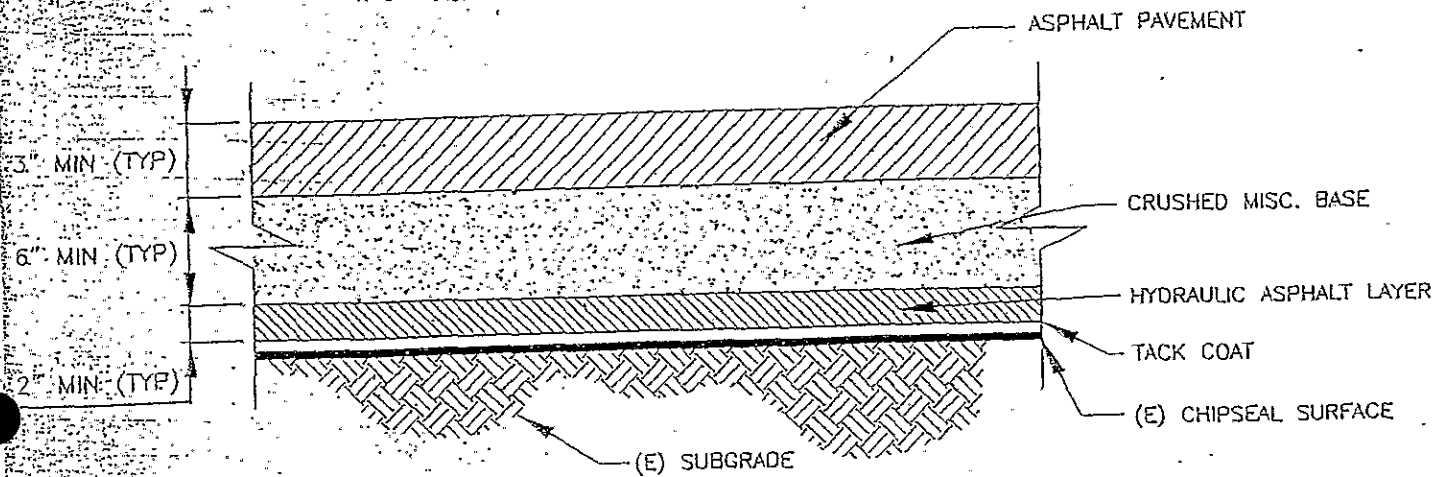


Exhibit "C"

Engineering Drawing of Cap



TYPICAL CAP DETAIL

N.T.S.

1
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02 0660417